



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA

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Rulemaking on the Commission's Intervenor
Compensation Program.)
_____)

R.06-04-022

REPLY BRIEF OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E)

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REPLY BRIEF OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E)

Pursuant to schedule set forth in the Order Instituting Rulemaking, issued May 4, 2006 ("Order"), Southern California Edison Company hereby replies to the jointly filed comments of The Utility Reform Network, Aglet Consumer Alliance, Green Power Institute, Utility Consumers' Action Network, Disability Rights Advocates, Consumer Federation of California, Union of Concerned Scientists, and San Luis Obispo Mothers for Peace on Proposed Amendments ("Joint Comments"). In this reply, SCE urges the California Public Utilities Commission ("CPUC") to adopt the proposed changes set forth in the Order without modification. The modifications proposed by the Joint Comments are not necessary to ensure that the intervenor compensation program is implemented in accordance with the authority set out by the Legislature in Article 5 of the California Public Utilities Code ("Code").

I.

PROPOSED RULE 76.75 REQUIRES NO MODIFICATION

The Joint Comments request modifications to proposed rule 76.75 which clarify that the determination of what constitutes "substantial contribution" will not change. No such clarification is necessary. California's Supreme Court has stated that the intervenor

compensation statute is solely governed by the rules set out by the Legislature.¹ Accordingly, there is no change to proposed rule 76.75 that can affect the definition of “substantial contribution” set out in Code Section 1802(h). Because the CPUC cannot redefine what constitutes a “substantial contribution” there is no change required to 76.75. Additionally, as set out in the Order, the proposed changes merely clarify what is expected to be contained in a request and do not affect the determination or definition of “substantial contribution.”²

II.

NO CHANGES SHOULD BE MADE TO PROPOSED RULE 76.74(F)

The Joint Comments request modification of Rule 76.74(f) to eliminate the requirement that an intervenor identify how its work supplemented, complemented, or contributed to the CPUC’s defense of its decision. This requirement cannot be eliminated. The Code explicitly states that compensation can only be awarded if the CPUC determines that an intervenor’s contribution has been “substantial.”³ The CPUC’s authority over determining what is reasonable in light of the intervenor’s contribution is further stated in the definition of “compensation” which defines the amount an intervenor is to receive as “payment for all or part, as determined by the Commission, of reasonable advocate’s fees.”⁴ Requiring intervenors to identify how their work in judicial review has assisted the CPUC is thus not out of line with the authority vested in the CPUC by the Legislature. Accordingly, the requirement that intervenors identify how they are assisting the CPUC in defense of its decisions is appropriate for compensation under Article 5.

¹ *Southern California Gas Co. v. Public Util. Comm’n*, 38 Cal. 3d 64, 66 (1985).

² See Appendix A at 3.

³ Code §1802(h).

⁴ Code §1802(a).

III.

NO CHANGES ARE REQUIRED TO PROPOSED RULE 76.74(C)

The Joint Comments request modification of Rule 76.74(c) to add the terms “best effort” or “best estimates” to the itemization requirements of that proposed rule. This request is made to underscore the idea that itemized estimates are uncertain at the time they are initially made. Because Code Section 1804(a)(2)(A) itself states that these estimates are only to reflect “the nature and extent of the customer’s planned participation in the proceeding as far as it is possible to set it out when the notice of intent is filed” there is no need to add additional terms. The plain terms of the statute itself recognize that the required information is but an estimate.

IV.

CONCLUSION

For all of the foregoing reasons, SCE urges the CPUC to adopt the proposed rules as set out in the Order Instituting Rulemaking.

Respectfully submitted,

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/s/

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CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true copy of REPLY BRIEF OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) on all parties identified on the attached service list(s). Service was effected by one or more means indicated below:

Transmitting the copies via e-mail to all parties who have provided an e-mail address. First class mail will be used if electronic service cannot be effectuated.

Executed this **17th day of July, 2006**, at Rosemead, California.

/s/

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